

SEAN P. REIS (SBN 184004)
sreis@edelson.com
30021 Tomas Street, Suite 300
Rancho Santa Margarita, California 92688
Telephone: (949) 459-2124
Facsimile: (949) 459-2123

Attorneys for Plaintiff KIMBERLY YORDY
and the putative class

Nickolas A. Kacprowski (SBN 242684)
nickolas.kacprowski@kirkland.com
Kirkland & Ellis LLP
555 California Street
San Francisco, California 94104
Telephone: (415) 439-1400
Facsimile: (415) 439-1500

Jeffrey L. Willian, P.C. (*admitted pro hac vice*)
jeffrey.willian@kirkland.com
Jordan M. Heinz (*admitted pro hac vice*)
jordan.heinz@kirkland.com
Kirkland & Ellis LLP
300 North LaSalle Street
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200

Attorneys for Defendant PLIMUS, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

KIMBERLY YORDY, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

PLIMUS, INC., a California corporation,

Defendant.

) Case No. 12-cv-00229-TEH

) **PARTIES' JOINT STIPULATED**
) **REQUEST FOR ENTRY OF A**
) **REVISED CASE SCHEDULE**
) **RELATED TO CLASS**
) **CERTIFICATION, SUMMARY**
) **JUDGMENT AND TRIAL**

) Judge: Honorable Thelton E. Henderson

1 Plaintiff Kimberly Yordy (“Yordy”) and Defendant Plimus, Inc. (“Plimus”), by and through
 2 their undersigned counsel and pursuant to Federal Rule of Civil Procedure 6(b) and L.R. 6-2,
 3 hereby stipulate for entry of a revised case schedule related to class certification, summary
 4 judgment and trial. In support of the instant stipulation, the Parties state as follows:

5 WHEREAS, on April 1, 2013, this Court entered a scheduling Order setting a trial to begin
 6 on January 21, 2014 (Dkt. 88);

7 WHEREAS, by Order entered October 29, 2013, the Court denied Plaintiff’s Supplemental
 8 Motion for Class Certification (Dkt. 116);

9 WHEREAS, Plaintiff has represented that she intends, subject to the Court’s approval, to
 10 file a renewed motion for certification of a narrower proposed class than she previously sought to
 11 certify in her Supplemental Motion for Class Certification (Dkt. 95);

12 WHEREAS, Plimus has represented that it intends to file a motion for summary judgment;

13 WEHREAS, counsel for the Parties have conferred and agreed that, in light of the Parties’
 14 anticipated motions, the January trial date and related deadlines in this matter should be continued
 15 to allow for full briefing and hearings on the same;

16 WHEREAS, the Parties have further agreed to the briefing schedule on Plaintiff’s
 17 anticipated renewed motion for class certification as outlined in the chart on page 3, below;

18 WHEREAS, the Parties have not, however, reached agreement on a proposed briefing
 19 schedule on Plimus’s anticipated motion for summary judgment and therefore, have proposed
 20 separate briefing schedules on the motion as outlined in the chart on page 3, below;

21 WHEREAS, Plaintiff has represented that she believes dispositive motion practice should
 22 not proceed until after the Court rules upon her anticipated renewed motion for class certification;

23 WHEREAS, Plimus has represented that it believes that briefing Plaintiff’s renewed motion
 24 for class certification and Plimus’s motion for summary judgment at the same time will streamline
 25 the issues left to be resolved by this Court. Indeed, as the Court noted in its October 29, 2013
 26 Order Denying Plaintiff’s Motion for Class Certification, the Court may consider the merits of
 27 Plaintiff’s claims where “class considerations are enmeshed in the factual and legal issues
 28 comprising the plaintiff’s cause of action.” (*See* Dkt. No. 116, at 4 (internal quotation and citation

omitted).) Given that the asserted claims turn on whether Plimus was involved in or responsible for the alleged false advertising of any of the UDWs, this Court will be considering the merits of those claims when determining whether common and typical questions are presented by the proposed class. Accordingly, Plimus believes that it would be more expeditious for the parties and the Court if the parties briefed both class certification and summary judgment simultaneously;

WHEREAS, the Parties' propose the following schedule of revised case deadlines:

EVENT	PLAINTIFF'S PROPOSED DEADLINE	DEFENDANT'S PROPOSED DEADLINE
<i>Plaintiff's Deadline to File Renewed Motion for Class Certification</i>	November 18, 2013	
<i>Defendant's Deadline to Oppose Renewed Motion for Class Certification</i>	December 23, 2013	
<i>Plaintiff's Deadline to File Reply in Support of Renewed Motion for Class Certification</i>	January 6, 2014	
<i>Hearing on Renewed Motion for Class Certification</i>	January 27, 2014	
<i>Deadline to File Dispositive Motions</i> (Currently October 28, 2013)	Sixty (60) days following the Court's ruling on Plaintiff's Renewed Motion for Class Certification	December 23, 2013
<i>Deadline to File Oppositions to Dispositive Motions</i>	Thirty (30) days following the filing of any dispositive motions	January 6, 2014
<i>Deadline to File Reply Briefs in Support of Dispositive Motions</i>	Fourteen (14) days following the filing of any oppositions to any dispositive motions	January 20, 2014
<i>Hearing on Defendant's Motion for Summary Judgment</i>	At the Court's convenience.	January 27, 2014
<i>Deadline to File Final Pre-Trial Conference Statement</i> (Currently December 27, 2013)	Forty-five (45) days following the Court's ruling on any dispositive motion	Forty-five (45) days following the Court's ruling on Plaintiff's renewed motion for class certification or Plimus's motion for summary judgment, whichever is later

1	<i>Pretrial Conference</i> (Currently January 6, 2014)	At the Court's convenience	At the Court's convenience
2	<i>Trial to Begin</i> (Currently January 21, 2014)	July 8, 2014	At the Court's convenience
3			

4 WHEREAS, the Parties have not previously sought any modification to the deadlines
5 outlined above;

6 WHEREAS, the relief requested herein is not sought for any improper purpose and good
7 cause exists to grant the same;

8 NOW THEREFORE, the Parties hereby STIPULATE and AGREE as follows:

9 1. The current trial date and related deadlines in this matter shall be continued in the
10 Court's discretion.

11 2. The Court, in its discretion, shall set a briefing schedule and hearing date on
12 Plaintiff's anticipated renewed motion for class certification (if at all).

13 3. The Court, in its discretion, shall set a briefing schedule and hearing date on
14 Defendant's anticipated motion for summary judgment (if at all).

15 IT IS SO STIPULATED.

16 **KIMBERLY YORDY**, individually and on behalf of
17 all others similarly situated,

18 Dated: November 14, 2013

By: /s/ Benjamin H. Richman

One of Plaintiff's Attorneys

19 Sean P. Reis (SBN 184004)
20 sreis@edelson.com
30021 Tomas Street, Suite 300
21 Rancho Santa Margarita, California 92688
Telephone: (949) 459-2124
22 Facsimile: (949) 459-2123

23 Rafey S. Balabanian (Admitted *Pro Hac Vice*)
rbalabanian@edelson.com
24 Benjamin H. Richman (Admitted *Pro Hac Vice*)
brichman@edelson.com
25 Christopher L. Dore (Admitted *Pro Hac Vice*)
cdore@edelson.com
26 EDELSON LLC
350 North LaSalle Street, Suite 1300
27 Chicago, Illinois 60654
Telephone: (312) 589-6370
28 Facsimile: (312) 589-6378

DATED: November 14, 2013

KIRKLAND & ELLIS LLP,

By: /s/ Jordan M. Heinz
One of Defendant's Attorneys

Nickolas A. Kacprowski (SBN 242684)
nickolas.kacprowski@kirkland.com
Kirkland & Ellis LLP
555 California Street
San Francisco, California 94104
Telephone: (415) 439-1400
Facsimile: (415) 439-1500

Jeffrey L. Willian, P.C. (*admitted pro hac vice*)
jeffrey.willian@kirkland.com
Jordan M. Heinz (*admitted pro hac vice*)
jordan.heinz@kirkland.com

KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200

FILER'S ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(i)(3)

I, Jordan M. Heinz, hereby certify that I am the ECF user whose identification and password are being used to file the foregoing *Parties' Joint Stipulated Request for Entry of a Revised Case Schedule Related to Class Certification, Summary Judgment and Trial*, and that the above-referenced signatory to this stipulation has concurred in this filing.

/s/ Jordan M. Heinz

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who have consented to electronic service are being served with a copy of the attached **PARTIES' JOINT STIPULATED REQUEST FOR ENTRY OF A REVISED CASE SCHEDULE RELATED TO CLASS CERTIFICATION, SUMMARY JUDGMENT, AND TRIAL** via the CM/ECF system on November 14, 2013.

DATED: November 14, 2013

/s/ Jordan M. Heinz
Jordan M. Heinz